

MEMO ENDORSED**LAW OFFICE OF
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May 9, 2008

(Via Fax 914-390-4152)
Honorable Judge Kenneth M. Karas
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

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DATE FILED: _____

Re: Yuly Aronson v. Anthony Branca
07 CIV 9405

Dear Judge Karas:

I represent the Plaintiff in the above matter and ask that Your Honor schedule an immediate conference to discuss Plaintiff's request to Amend the Complaint to include CITI/ Smith Barney as a Defendant for the reasons stated below. I have requested the consent of counsel for Defendant Branca to agree to the Amendment, but counsel has indicated that his client is not willing to consent to the request. This request to confer is being made to avoid unnecessary Motion practice and so as to not burden Your Honor with Motions that can otherwise be resolved in conference.

By way of background, this is a proceeding to recover losses sustained by Plaintiff due to the fraudulent actions of Defendant in his capacity (1) as a Certified Public Account ("CPA") retained by Plaintiff and entities in which Plaintiff held and holds interests and (2) as a fellow shareholder and Member of entities in which Plaintiff was and is a shareholder and Member. Simply stated, Defendant utilized his position as a CPA and shareholder and Member to defraud and embezzle monies and property in which Plaintiff held an interest. As a result, Plaintiff has been damaged in excess of \$750,000

Procedurally, the Complaint and a Preliminary TRO request was filed on October 24, 2007. The TRO was granted and has been extended numerous times by Your Honor upon mutual consent of the parties and it continues to remain in effect. The Defendant, Anthony Branca, filed an Answer to the Complaint on or about December 21, 2007.

On or about January 9, 2008, Plaintiff served a subpoena upon CITI/Smith Barney seeking, inter alia, documents relating to Defendant's wrongful actions of transferring funds that had been deposited by Plaintiff into an account at Prestige

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Financial, Inc. ("Prestige Financial"). Plaintiff had deposited \$252,692 into an account titled Landmark Construction at Prestige.

CITI/Smith Barney responded to the subpoena on or about February 15, 2008 and it was subsequently learned that Defendant had opened an account at CITI/Smith Barney also utilizing the same name (Landmark Construction) and had siphoned off the \$252,962 that had been deposited by Plaintiff into the Landmark Construction account at Prestige Financial.

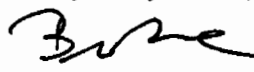
CITI/Smith Barney produced documents responsive to the Subpoena, which indicate that CITI/Smith Barney allowed Defendant to transfer the \$252,962 which had been deposited by Plaintiff into the Prestige account, into the account established by Defendant at CITI/Smith Barney, without the proper documentation being filed with CITI/Smith Barney, and upon information and belief, in direct contradiction to (1) the internal compliance rules of CITI/ Smith Barney and (2) the rules of the securities industry.

The wrongful actions of CITI/Smith Barney have caused damages to Plaintiff and Plaintiff requests leave to Amend the Complaint to include CITI/Smith Barney in this action pursuant to FRCP 15 (a) and (d) which state that leave shall be freely given when justice requires.

No burden will be imposed on the Defendant, Anthony Branca, if Plaintiff is granted leave to amend as the allegations complained of herein will be brought against CITI/Smith Barney. It is important to note that no depositions have occurred in this matter, discovery is ongoing and the court has not yet scheduled a trial date in this matter.

With the above in mind, Plaintiff respectfully asks that Your Honor schedule a conference with the parties to discuss this request.

Very Truly Yours,


Brian H. Reis

For the reasons discussed at the
phone conference on May 15, 2008,
Plaintiff may file the amended
complaint by May 24, 2008.

Cc: Peter Goodrich (Via Fax 914-683-6770)

So ordered.

